



Plant Closure: It's not over just because the doors close The Impact of a Plant Closure on a Workers' Comp Claim

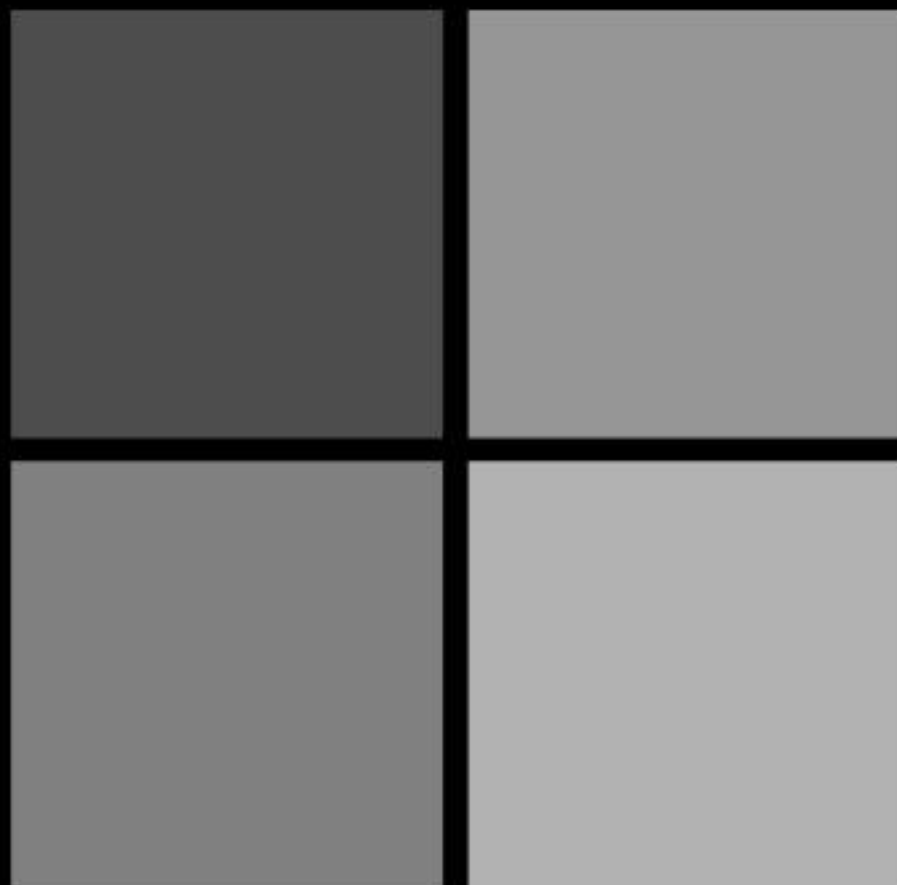
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Plant Closure:

It's Not Over Just Because the Doors Close!

The Impact of a Plant Closure on a Workers' Compensation Claim

A Brief Overview ...



- Plant closures = uncertainty
- Address the legal effects of a plant closure with regard to workers' compensation
- Examine what each party should do to protect its interests

New Claims After a Plant Closes



- Consider what is most important regarding worker's compensation
- Explore pertinent information for employees and employer's to be aware of when a plant closure is announced
- Note that once the doors are shut it's hard to prove a negative

Let's Play ...



What Do You Think?!

Workers' compensation claims spike how much after a plant closing or mass layoff announcement?

- A. 37%
- B. 50%
- C. 60%
- D. 73%

Important Points to Remember ...

- Plant closures = unfortunate reality
- Impacts your workers' compensation experience
- Workers comp claims spike after a plant closing/mass layoff announcement

50%



How You Can Prepare ...



Notify your broker and claims administrator



Place any workers currently out of work on TTD



Limit severance payments to those employees who are at work



Eliminate disincentives to collect unemployment compensation benefits



Use outplacement professionals

How You Can Prepare ...



Notify your broker and claims administrator

- Contact your third party administrator (TPA) to handle additional workers comp claims quickly
- Include the human resources department and legal counsel
- Do not automatically layoff all employees out on workers compensation

How You Can Prepare ...



Place any workers currently out of work on TTD

- Consider working with an offsite transitional duty vendor
- Be prepared to place ALL employees who are on transitional duty in a paid position elsewhere
- Charitable positions are also an option as is home-based employment

How You Can Prepare ...



Limit severance payments to those employees who are at work

- May discourage the filing of workers' comp claims without merit
- Makes the lure of getting a quick workers' comp settlement less attractive

How You Can Prepare ...



Eliminate disincentives to collect unemployment compensation benefits

- Less anxious about their source of income = less likely to commit work comp fraud
- Eligible for unemployment benefits IF they are "able and available" to work
- Learn how the state handles unemployment compensation in conjunction with workers compensation
 - Allows concurrent benefits but repayment of unemployment benefits may be required
 - May challenge unemployment claims of employees on workers' compensation

How You Can Prepare ...



Use outplacement professionals

- Offer services that can make finding part-time or alternate employment possible
- Consider the human side of the story

Reconsideration of Old Claims ...



Let's Play ...



If an injured employee receives benefits and is initially capped at 1 ½ times the impairment rating, but is subsequently no longer employed by the pre-injury employer within either two hundred (200) or four hundred (400) weeks of the day the employee returned to work for the pre-injury employer, the employee may seek reconsideration of the permanent partial disability benefits of a prior award.

True or False

Let's Play ...



If an injured employee receives benefits and is initially capped at 1 ½ times the impairment rating, but is subsequently no longer employed by the pre-injury employer within either two hundred (200) or four hundred (400) weeks of the day the employee returned to work for the pre-injury employer, the employee may seek reconsideration of the permanent partial disability benefits.

True or False

Let's Play ...



Employees who continue in their employment after a reduction in pay or a reduction in hours due to economic conditions shall be entitled to reconsideration of their claims under this section if the reduction in pay or reduction in hours affected at least fifty percent (50%) of all hourly employees operating at or out of the same location.

True or False

Let's Play ...



Employees who continue in their employment after a reduction in pay or a reduction in hours due to economic conditions shall be entitled to reconsideration of their claims under this section if the reduction in pay or reduction in hours affected at least fifty percent (50%) of all hourly employees operating at or out of the same location.

True or False

Reconsideration of Old Claims ...

- NOTE: This provision does not apply to or include employees involved in layoffs, closures or a termination of business operations.

If the plant closes, reconsideration may apply, but the right to reconsideration is not triggered by reduction in pay/hours if 50% of workers at same location are affected.

Let's Play ...



Under no circumstances shall an employee be entitled to reconsideration when the loss of employment is due to either: The employee's voluntary resignation or retirement; provided, however, that the resignation or retirement does not result from the work-related disability that is the subject of such reconsideration; or the employee's misconduct connected with the employee's employment.

True or False

Let's Play ...



Under no circumstances shall an employee be entitled to reconsideration when the loss of employment is due to either: The employee's voluntary resignation or retirement; provided, however, that the resignation or retirement does not result from the work-related disability that is the subject of such reconsideration; or the employee's misconduct connected with the employee's employment.

True or False

Let's Play ...



To seek reconsideration, the employee shall first request a benefit review conference within one (1) year of the date on which the employee ceased to be employed by the pre-injury employer.

True or False

Let's Play ...



To seek reconsideration, the employee shall first request a benefit review conference within one (1) year of the date on which the employee ceased to be employed by the pre-injury employer.

True or False

Let's Play ...



The right to reconsideration is triggered when employer is sold or acquired. For injuries occurring on or after July 1, 2009, if an injured employee receives permanent partial disability benefits for body as a whole injuries or if the injured employee receives permanent partial disability benefits to the body as a whole or applicable schedule member injuries and the pre-injury employer is sold or acquired subsequent to the receipt of the permanent partial disability benefits, then the injured employee shall be entitled to seek reconsideration.

True or False

Let's Play ...



The right to reconsideration is triggered when employer is sold or acquired. For injuries occurring on or after July 1, 2009, if an injured employee receives permanent partial disability benefits to the body as a whole or applicable schedule member injuries and the pre-injury employer is sold or acquired subsequent to the receipt of the permanent partial disability benefits, then the injured employee shall be entitled to seek reconsideration.

True or False

Let's Play ... **NOT**



The right to reconsideration is triggered when employer is sold or acquired. For injuries occurring on or after July 1, 2009, if an injured employee receives permanent partial disability benefits for body as a whole injuries or if the injured employee receives permanent partial disability benefits to the body as a whole or applicable schedule member injuries and the pre-injury employer is sold or acquired subsequent to the receipt of the permanent partial disability benefits, then the injured employee shall be entitled to seek reconsideration.

True or False

Relocation & Potential New Claims

... shall be entitled to the benefits provided by this chapter; provided, that at the time of the injury:

- (1) The employment was principally localized within this _____ ;
- (2) The contract of _____ was made in this state; or
- (3) If at the time of the injury the injured worker was a _____
_____ and there existed a substantial connection between this state and the particular employer and employee relationship.

Relocation & Potential New Claims

... shall be entitled to the benefits provided by this chapter; provided, that at the time of the injury:

- (1) The employment was principally localized within this state ;
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Relocation & Potential New Claims

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- (1) The employment was principally localized within this state;
- (2) The contract of hire was made in this state; or
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Relocation & Potential New Claims

... shall be entitled to the benefits provided by this chapter; provided, that at the time of the injury:

- (1) The employment was principally localized within this state ;
- (2) The contract of hire was made in this state; or
- (3) If at the time of the injury the injured worker was a Tennessee resident and there existed a substantial connection between this state and the particular employer and employee relationship.

Hearing Loss Claims

Many employers have never had hearing loss claims and may not be aware that it will be a consequence in the future, especially during **layoffs or closures** .

Questions and Answers ...



Resources:

- © Amaxx Risk Solutions, Inc. All rights reserved under International Copyright Law. Source Workerscompensation.com
- Tenn.Code Ann. 50-6-241

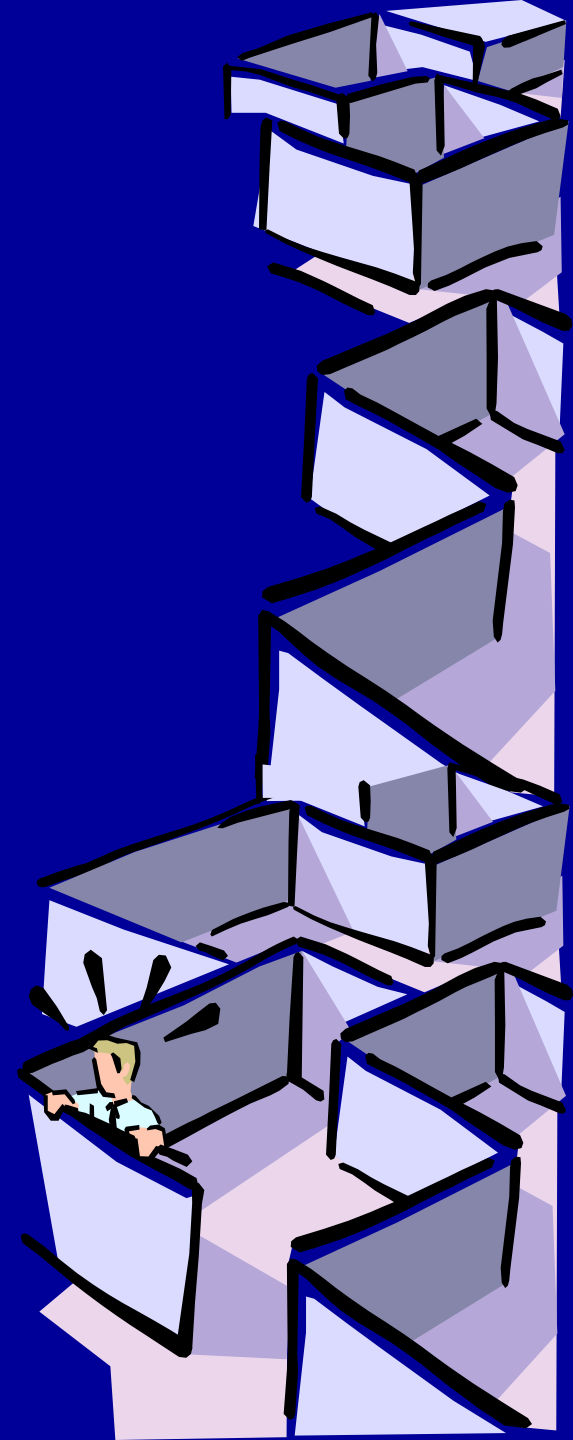


Hearing Loss

Navigating the Maze

By

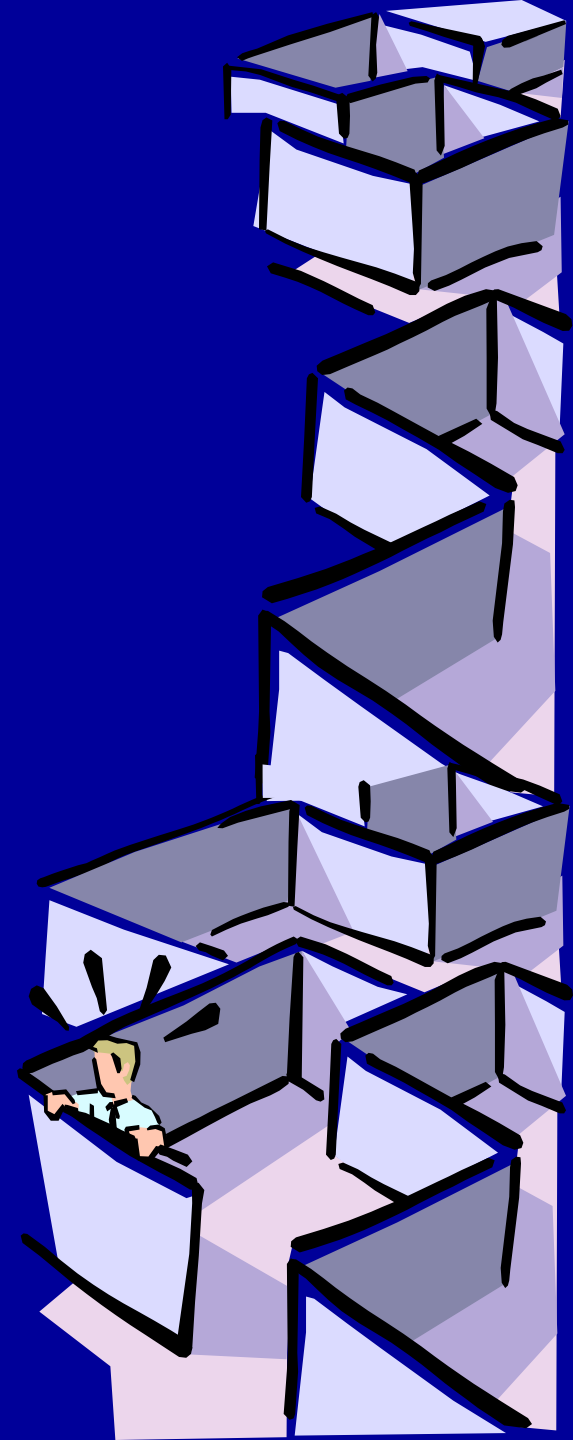
Melette L. Meloy, M.S., CCC-A
Audiologist



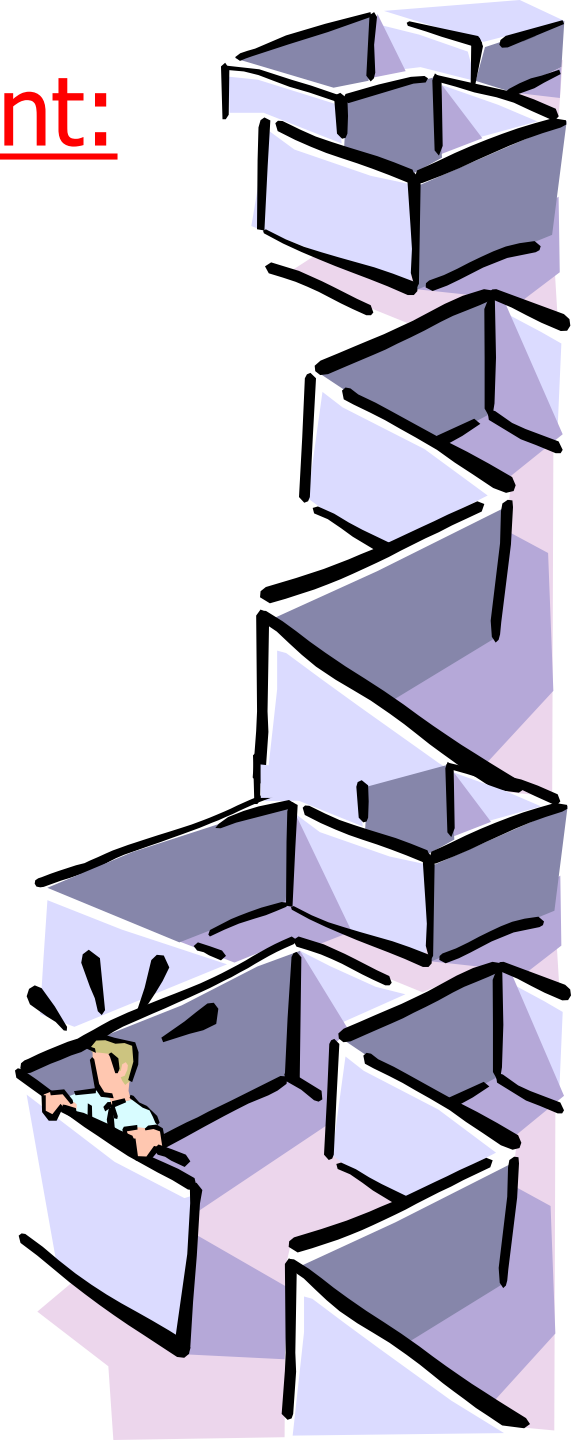
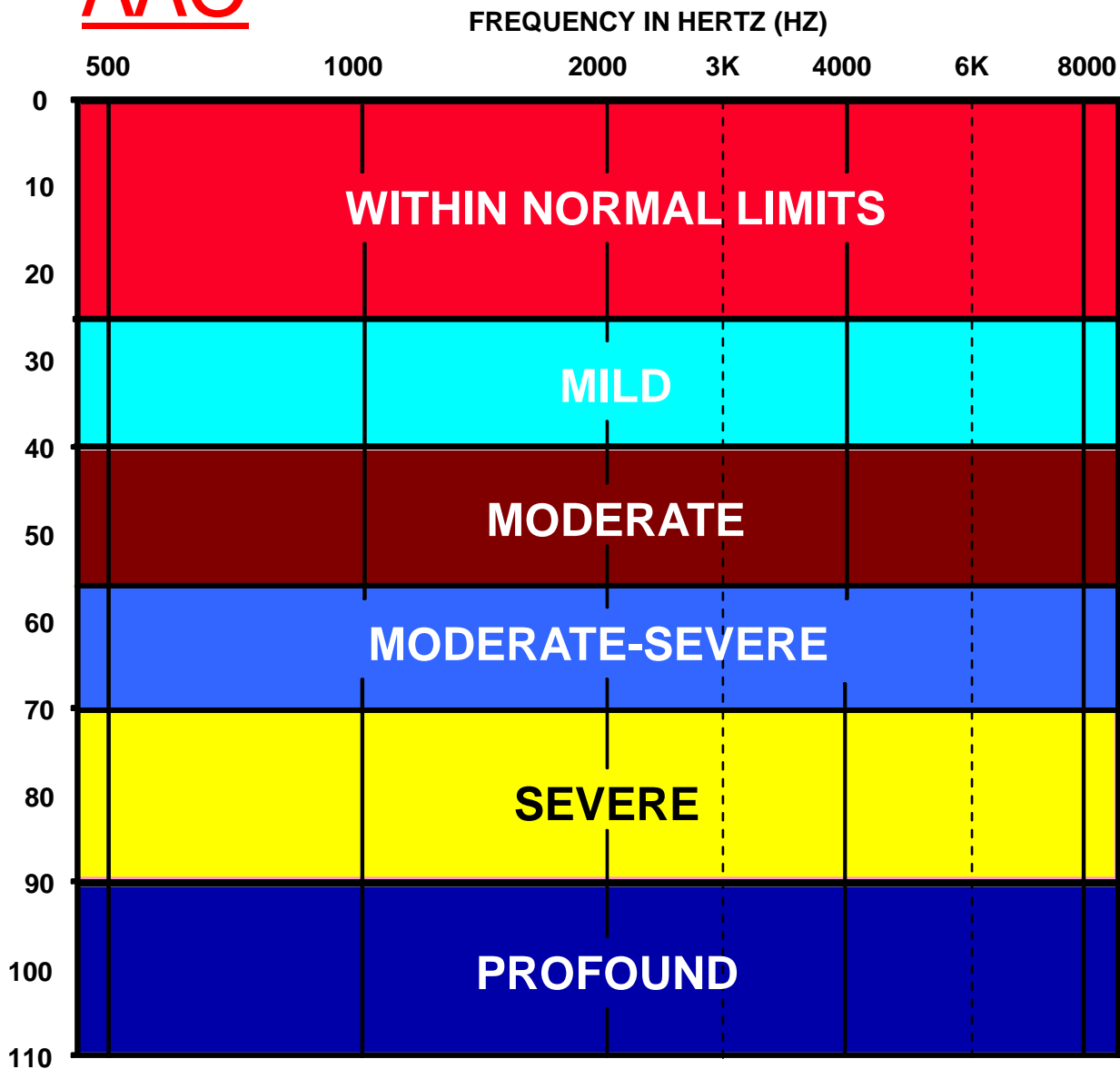


Hearing Loss Statistics

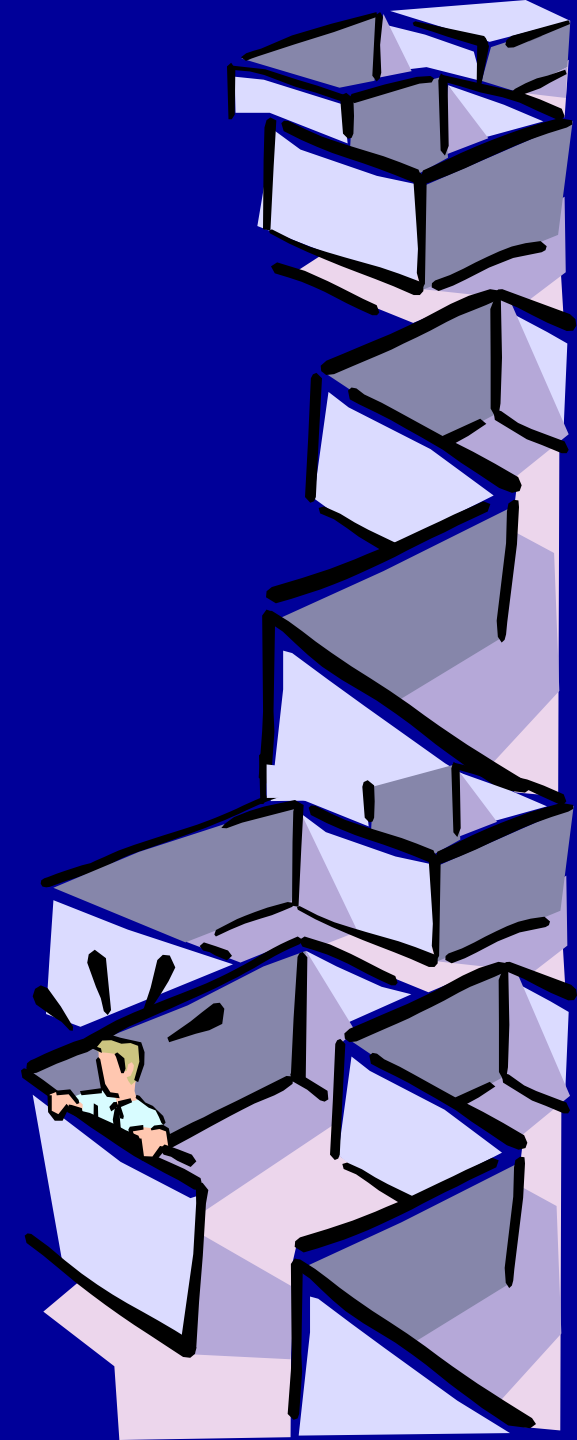
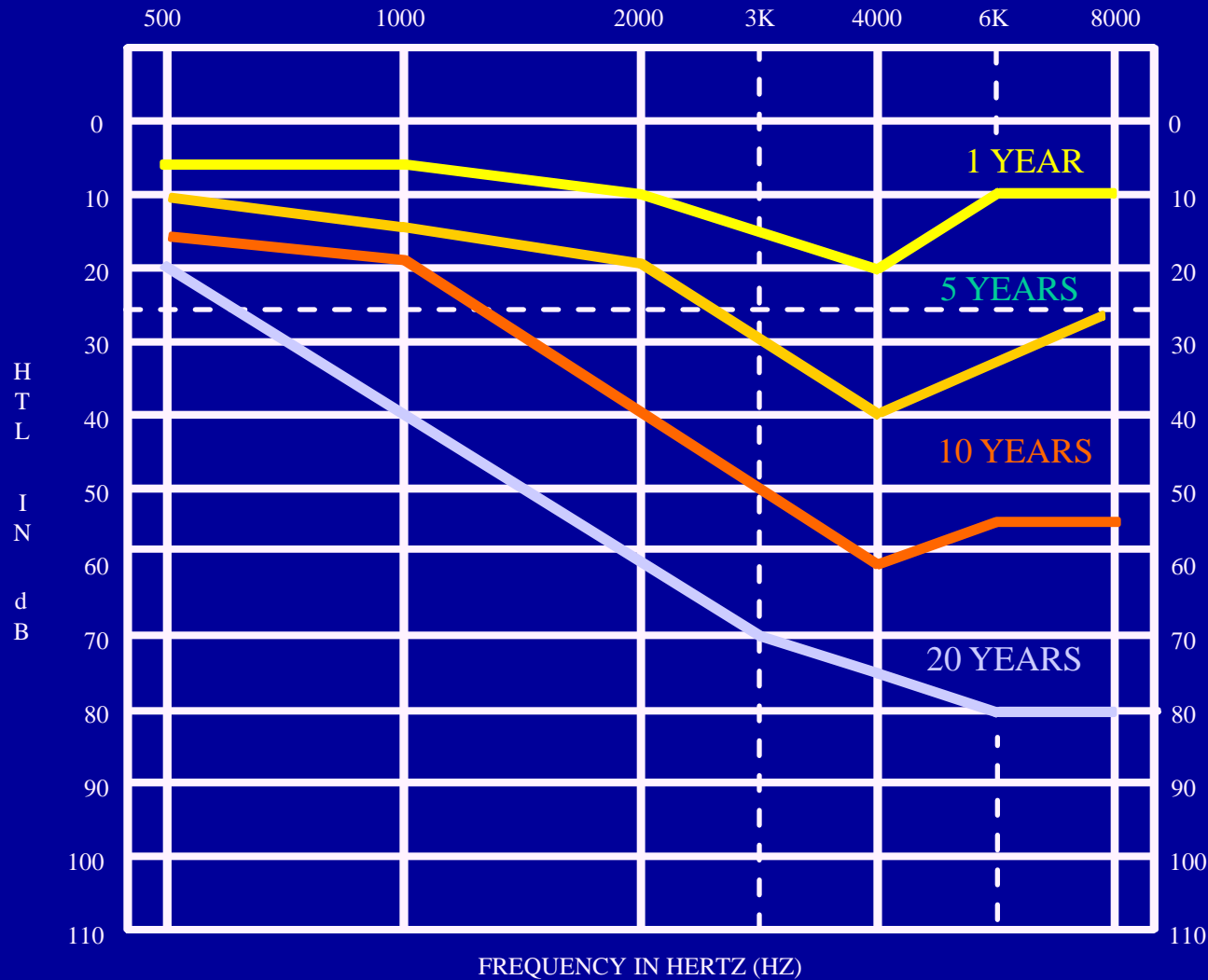
- 30 Million with Significant Hearing Loss
- 10 Million Attributed to Noise
- 2.1 Million New Cases of Hearing Loss Annually
- 10 to 15 Million with Debilitating Tinnitus
- 20 to 50% of Workforce Impaired
- 1987 to 1997 – \$4 to \$6 Billion in Comp



Degrees of Hearing Impairment: AAO

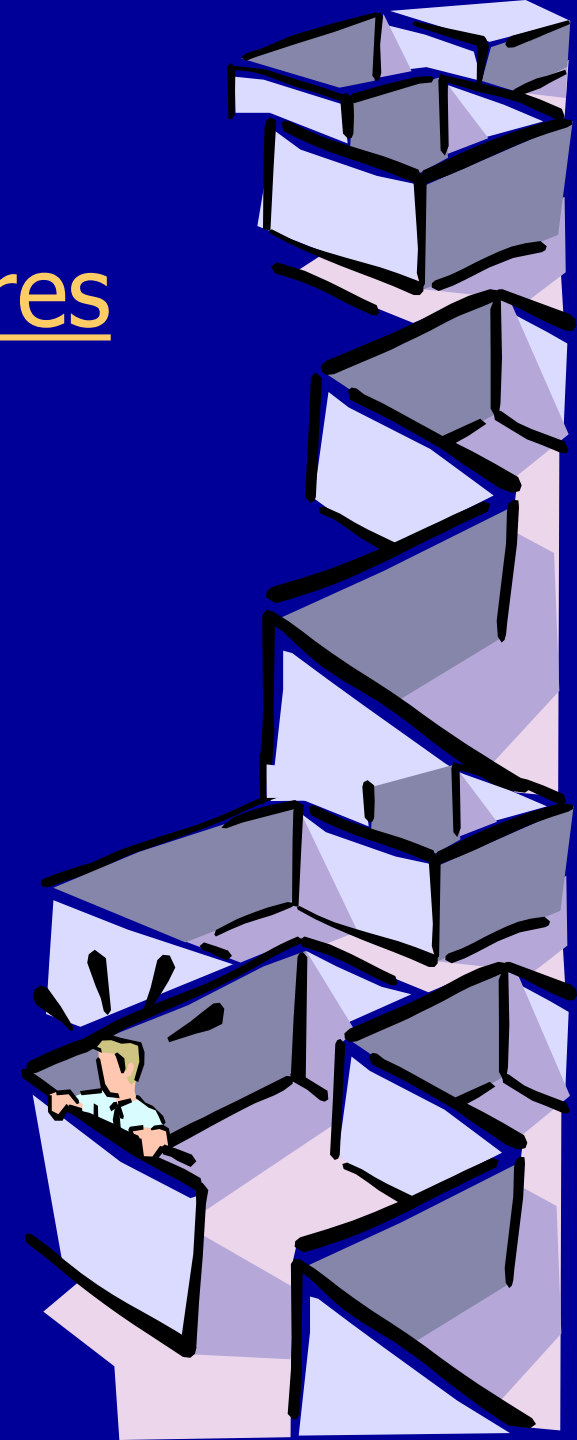


Progression of NIHL

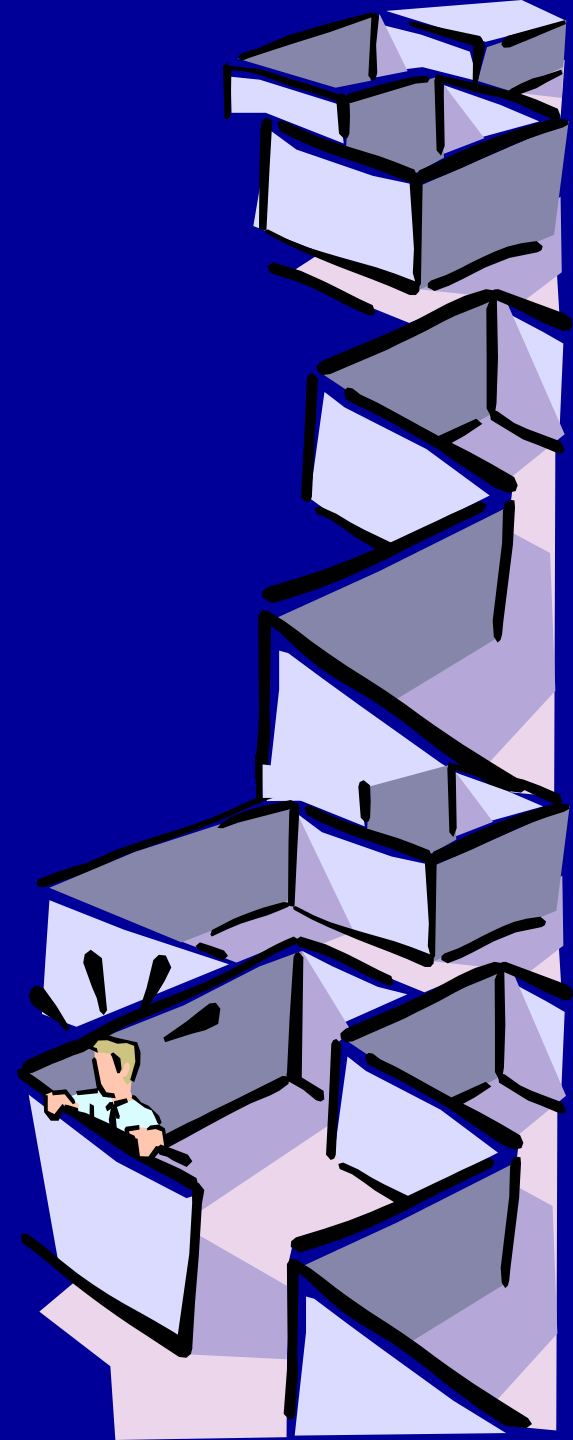


Current Evaluation Procedures

- AMA Guidelines
 - 500, 1000, 2000, 3000 Hz
- Stress Related Disease
- Chemical Exposures
- Emotional Disorders
- PRIMARILY work related

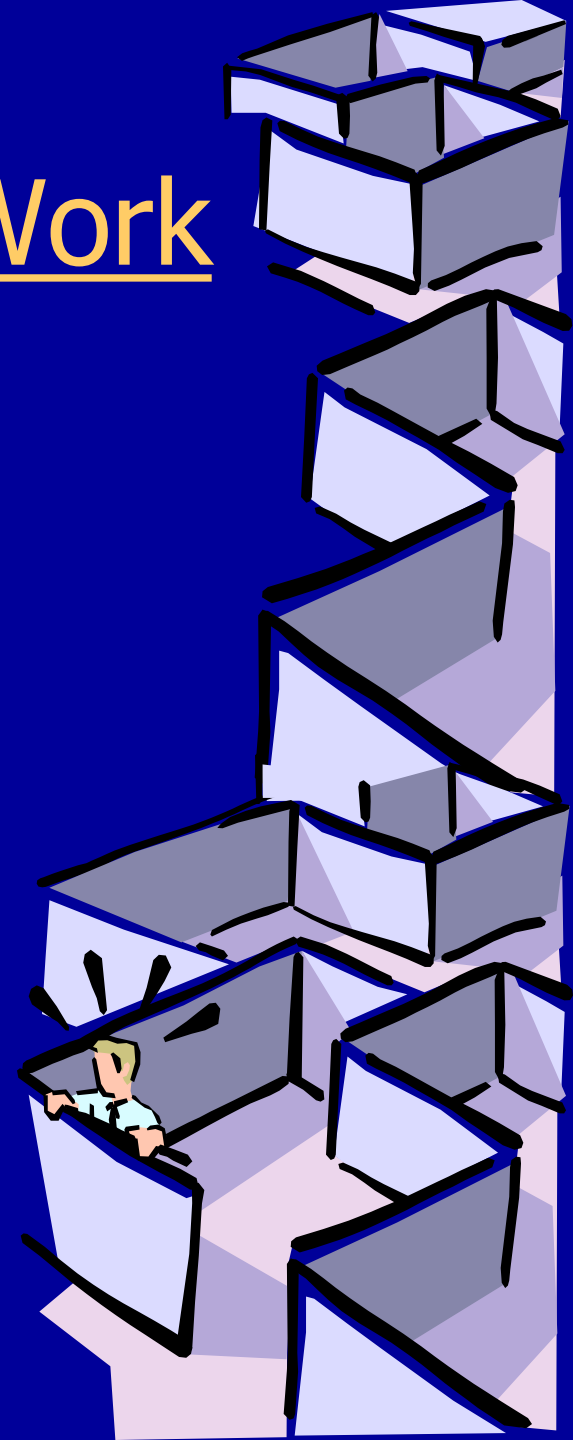


OCCUPATIONAL VS NON OCCUPATIONAL HEARING LOSS



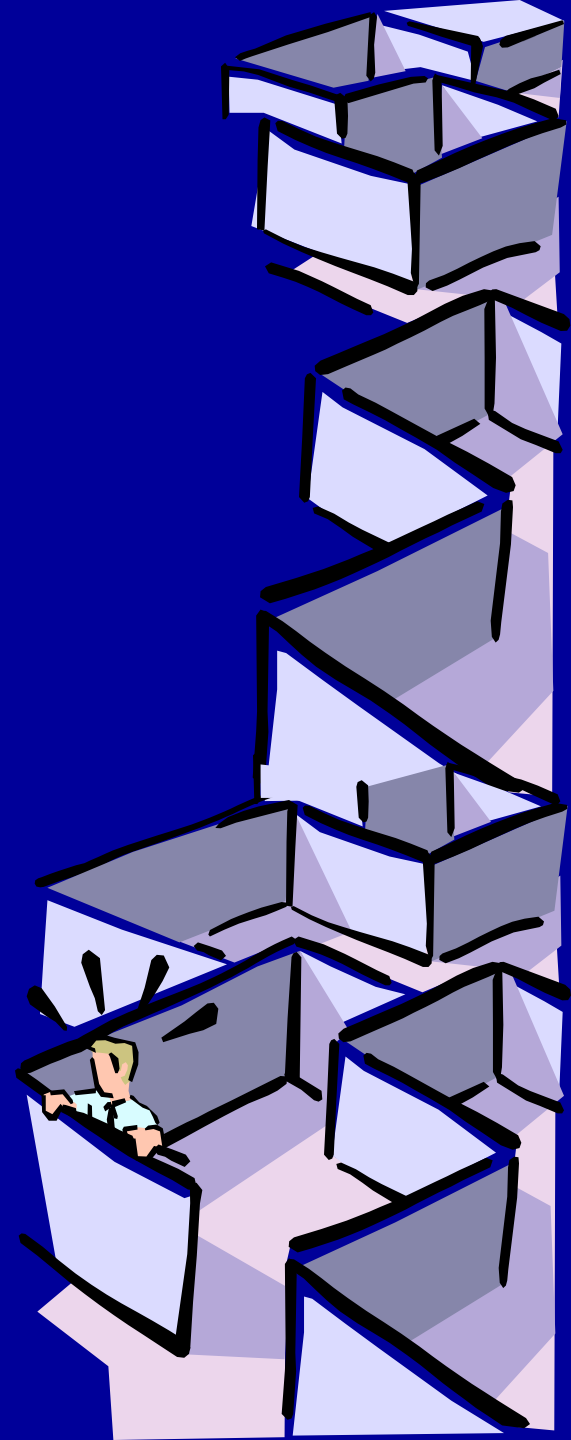
Steps in Determining Work Relatedness

- Adequacy of Testing
- Medical History
- Exposures
 - Noise
 - Chemicals
 - Medications
- Hearing Protection Use
- Hearing Conservation Program



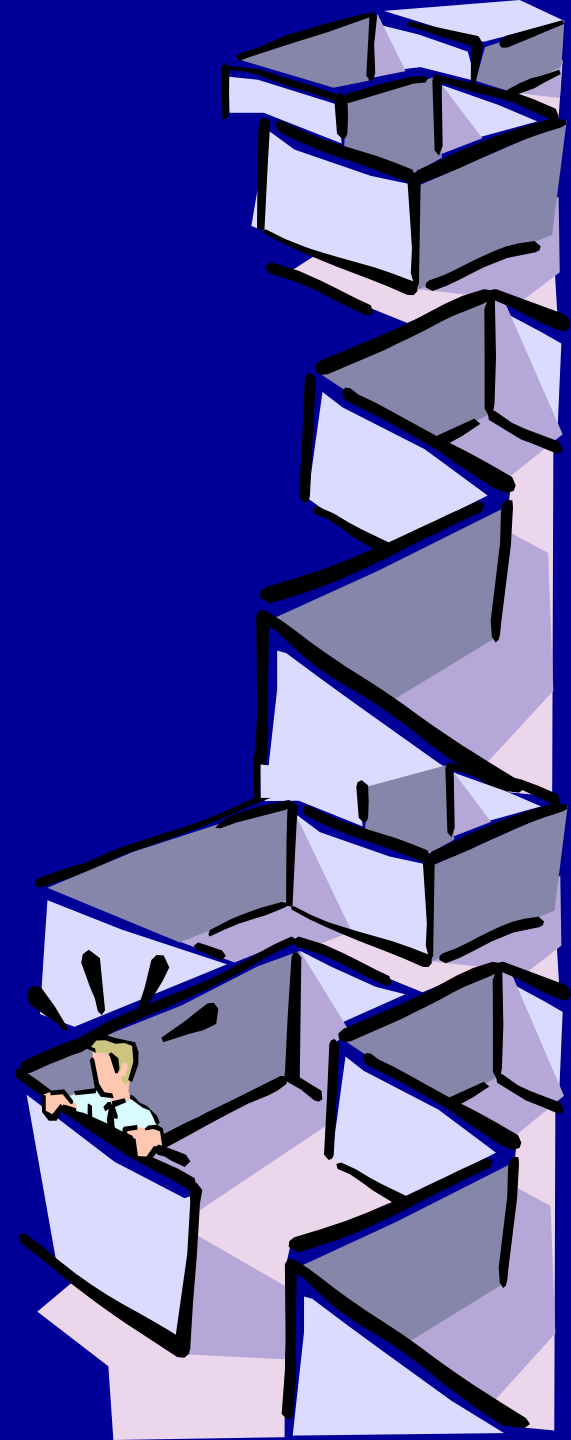
Myth #1

- If a person was born with a hearing loss, then they can never have a work-related hearing loss.



Myth #2

- If a person is exposed to non-occupational noise, then the hearing loss is not work related.



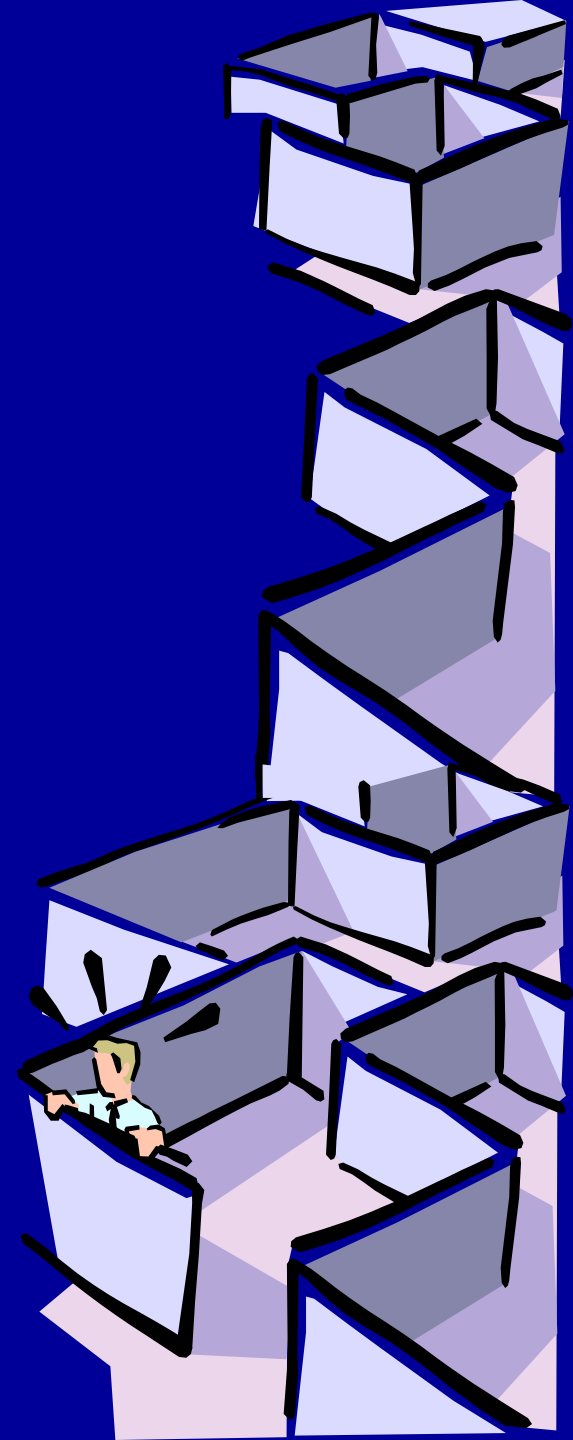
Myth #3

- All spouses are hearing impaired.



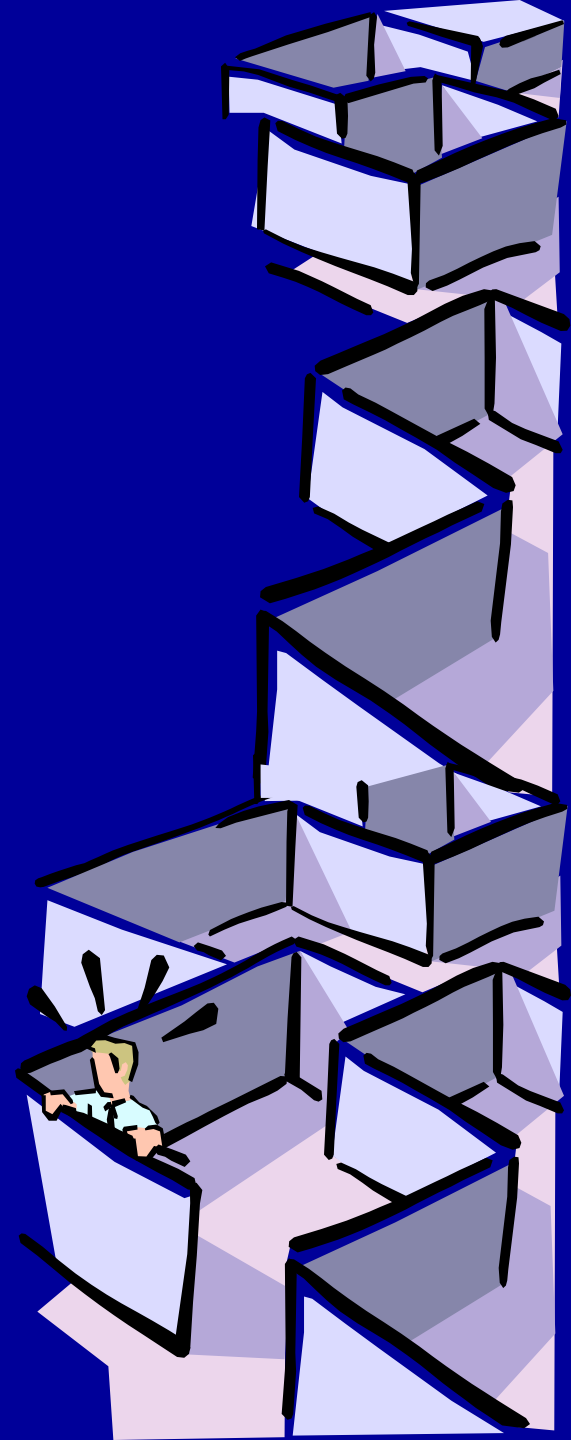
Defense of Case

- Histories and Questionnaires
- Records
 - Noise Monitoring
 - HPD Use
 - Training
 - Test History
 - Medical Reports
- Compliance with Program



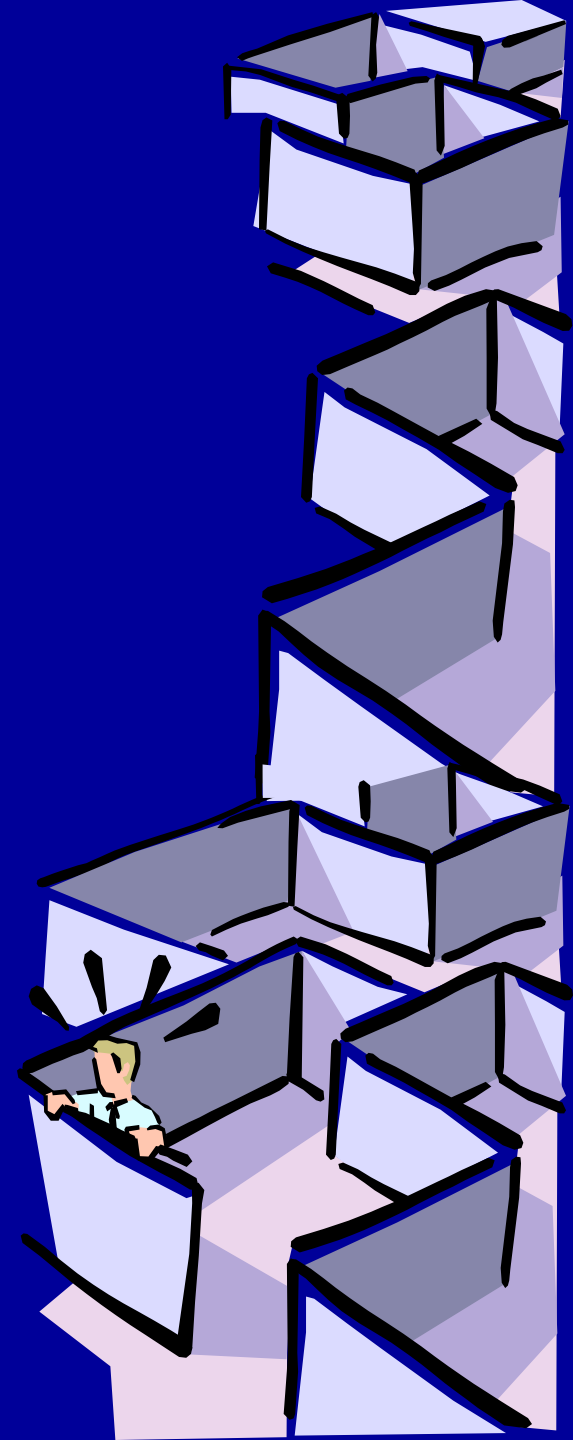
Case Study #1

- Maintenance Worker
- 25 year employment
- Current noise survey only
- Non-occ noise



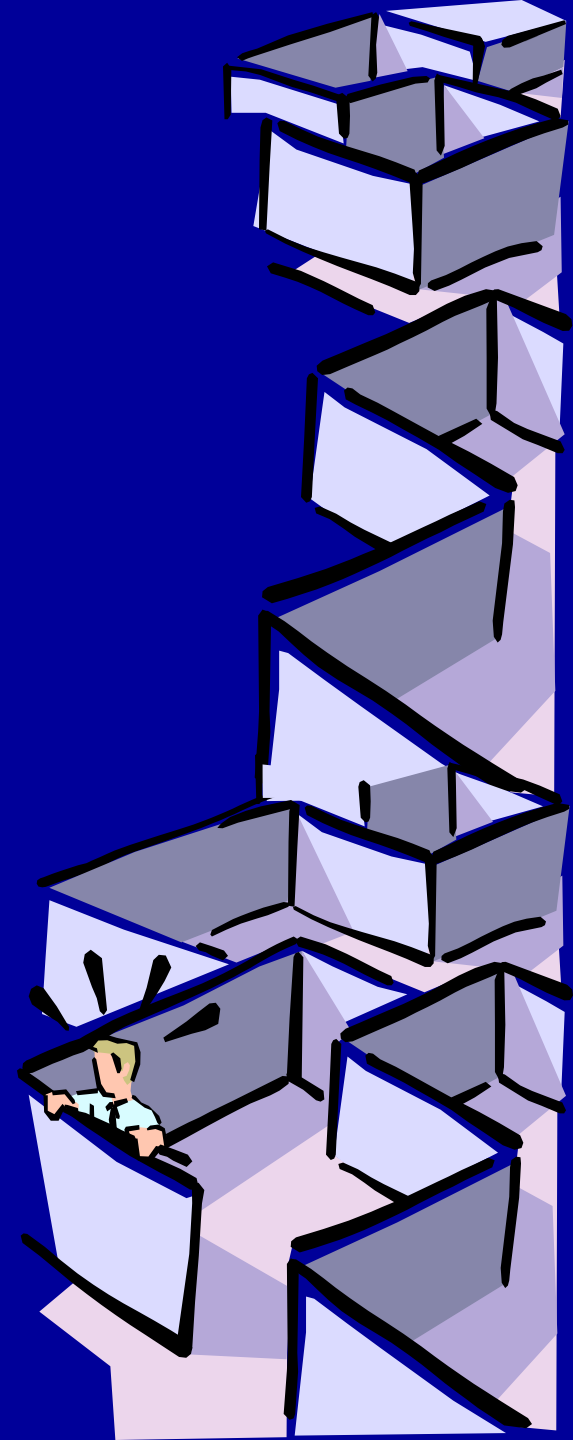
Case Study #2

- Warehouse
- Variable Exposure
- Current ear surgery
- MD report



Case Study Questions

- Noise Level Throughout Work History
- DOCUMENTED!! Medical Problems
- Investigation of Non-occupational Noise
- Use of HPD
- Consistently Applied Program



Noise-Induced Hearing Loss

Noise-induced hearing loss
happens as a result of one thing:

NOISE



Summary

Start at the beginning and work forward:
Educate and Prevent

Not at the end going backwards.

